

MONTANA LEGISLATIVE HISTORY

Chapter 585 99
~~198~~ 19 ~~88~~

Bill H _____ S 441 Original bill & history X C

H. Committee on Taxation

Hearing Date(s) 3/29 X C

4/9 X C

_____ C

_____ C

Date Out _____ C

S. Committee on Taxation

Hearing Date(s) 3/2 X C

3/9 X C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes X No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

	7-16-4105, 7-16-4113, 7-16-4114, 7-21-3203, 7-21-3410, 7-21-3432, 7-21-3433, 7-22-2142, 7-22-2222, 7-22-2306, 7-22-2432, 7-22-2512, 7-32-4117, 7-33-2109, 7-33-2209, 7-33-4111, 7-33-4130, 7-34-102, 7-34-2122, 7-34-2133, 7-34-2417, 7-35-2122, 13-13-230, 15-1-402, 15-2-301, 15-6-134, 15-6-143, 15-6-201, 15-7-102, 15-7-103, 15-7-111, 15-7-403, 15-8-111, 15-10-204, 15-10-205, 15-10-401, 15-10-402, 15-16-117, 15-16-203, 15-23-214, 15-24-1402, 15-24-1501, 15-24-1603, 15-36-323, 20-3-205, 20-3-324, 20-7-705, 20-7-714, 20-9-131, 20-9-141, 20-9-142, 20-9-151, 20-9-152, 20-9-168, 20-9-331, 20-9-333, 20-9-360, 20-9-404, 20-10-147, 20-15-305, 20-15-311, 20-15-313, 20-15-314, 20-15-326, 20-25-423, 20-25-439, 22-1-304, 22-1-316, 23-4-303, 41-5-1804, 50-2-111, 50-2-114, 53-2-322, 53-2-813, 53-20-208, 67-10-402, 67-11-201, 67-11-301, 67-11-302, 75-10-112, 76-1-111, 76-1-403, 76-1-405, 76-1-406, 76-1-407, 76-2-102, 76-5-1116, 76-6-109, 76-15-501, 76-15-516, 76-15-518, 76-15-623, 81-8-504, 85-3-422, 85-7-206, 85-7-307, 85-7-1953, 85-7-1973, 85-7-2104, 85-7-2117, 85-7-2134, 85-7-2136, 85-8-601, 85-8-615, 85-8-618, 85-9-112, AND 90-6-403, MCA; AMENDING SECTION 1, SENATE BILL NO. 79, 1999; REPEALING SECTIONS 7-6-2514, 7-6-4405, AND 15-10-412, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE	2734
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2836

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2/15 Fiscal Note Received
 2/17 Fiscal Note Printed
 3/22 Tabled in Committee
 3/31 Missed Deadline for Revenue Bill Transmittal

SB 441 Introduced by Christiaens, et al.

LC1531 Drafter: Bohyer

Require the Department of Revenue, under Certain Conditions, to Use Two of the Three Methods of Determining the Market Value of Property, Which Include the Capitalization of Net Income Method, the Sales of Comparable Property Method, and the Cost-less-depreciation Method, That Provide a Similar Market Value as the Better Indicators of Market Value;...

1/07	Fiscal Note Needed		
2/11	Introduced and 1st Reading		
2/11	Referred to Taxation		
2/11	Fiscal Note Requested		
2/17	Fiscal Note Received		
2/18	Fiscal Note Signed		
2/18	Fiscal Note Printed		
3/02	Hearing		
3/09	Committee Executive Action--Bill Passed	7	2
3/09	Committee Report--Bill Passed		
3/10	2nd Reading Passed	49	1
3/11	3rd Reading Passed	46	4
	Transmitted to House		
3/12	Referred to Taxation		
3/29	Hearing		
4/09	Committee Executive Action--Bill Concurred	12	8
4/09	Committee Report--Bill Concurred		
4/13	2nd Reading Concurred as Amended	97	1
4/15	3rd Reading Concurred	96	2
	Returned to Senate with Amendments		
4/15	2nd Reading House Amendments Concurred	50	0
4/16	3rd Reading Passed as Amended by House	50	0
4/16	Sent to Enrolling		
4/19	Returned from Enrolling		
4/20	Signed by President		
4/21	Signed by Speaker		
4/22	Transmitted to Governor		
4/30	Vetoed by Governor		
6/07	Veto Overridden by Senate via Mail Poll	39	10
6/07	Veto Overridden by House via Mail Poll	76	22
6/07	Chapter Number Assigned		
	Chapter Number 589		
	Effective Date: 10/01/1999 - All Sections		

SB 442 Introduced by Stang, et al.

LC1704 Drafter: McClure

Revise Title 20 to Implement the Provisions of Article VIII, Section 17, of the Montana Constitution;...

By Request of Joint Select Committee on CI-75

2/11 Introduced and 1st Reading
 2/11 Referred to State Administration

Senate BILL NO. 441

INTRODUCED BY

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF REVENUE, UNDER CERTAIN CONDITIONS, TO DEFER USING THE CAPITALIZATION OF NET INCOME METHOD OF APPRAISAL AS AN INDICATOR OF MARKET VALUE AND INSTEAD USE THE MARKET VALUE OF PROPERTY AS INDICATED BY THE SALES OF COMPARABLE PROPERTY METHOD OR BY THE COST-LESS-DEPRECIATION METHOD; AMENDING SECTION 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-111, MCA, is amended to read:

"15-8-111. **Assessment -- market value standard -- exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization of income method as one approximation of market value, the department shall fully consider comparable sales of like property before making a final determination of market value. Whenever sufficient, relevant information on comparable sales or construction cost exists and indicates a market value lower than the market value indicated by the capitalization of income method, the department shall rely upon the comparable sales or the construction cost as the better indicator of market value.

~~(c)~~(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare

1 valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

2 (3) The department may not adopt a lower or different standard of value from market value in
3 making the official assessment and appraisal of the value of property, except:

4 (a) the wholesale value for agricultural implements and machinery is the average wholesale value
5 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American
6 equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category
7 is unavailable, the department shall use a comparable publication or wholesale value category.

8 (b) for agricultural implements and machinery not listed in an official guide, the department shall
9 prepare a supplemental manual in which the values reflect the same depreciation as those found in the
10 official guide; and

11 (c) as otherwise authorized in Titles 15 and 61.

12 (4) For purposes of taxation, assessed value is the same as appraised value.

13 (5) The taxable value for all property is the percentage of market or assessed value established
14 for each class of property.

15 (6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

16 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds
17 after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in
18 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

19 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

20 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity
21 of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are
22 valued as agricultural lands for tax purposes.

23 (d) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value
24 of the land when valued as forest land.

25 (7) Land and the improvements on the land are separately assessed when any of the following
26 conditions occur:

27 (a) ownership of the improvements is different from ownership of the land;

28 (b) the taxpayer makes a written request; or

29 (c) the land is outside an incorporated city or town."

30

3 - END -

FISCAL NOTE

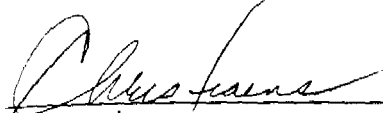
Bill #: SB0441

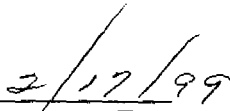
Title: Revise property valuation and assessment

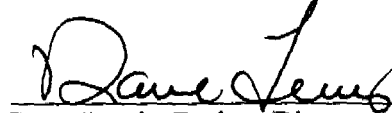
Primary

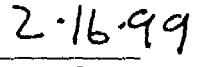
Sponsor: Chris Christiaens

Status: As introduced


Sponsor signature


Date


Dave Lewis, Budget Director


Date

Fiscal Summary

No fiscal impact.

SB 441

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Taxation -

05:12 PM

**SENATE
TAXATION**

CHAIR: Devlin, Gerry

VICE CHAIR: DePratu, Bob

MEMBERS:

Bohlinger, John

Eck, Dorothy

Ekegren, Pete

Ellingson, Jon

Ellis, Alvin

Glaser, Bill

Stang, Spook

SECRETARY: Barnes, Sandy

LEGISLATIVE STAFF: Heiman, Lee

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Taxation -

05:12 PM

SB 426 **SPONSOR:** Sprague, Mike **SHORT TITLE:** Dedicate 50% of foreign capital depository for income tax relief

REFERRED ON: 02/10/1999 **HEARD ON:** 02/18/1999

EXECUTIVE ACTION: 02/18/1999 Bill Passed -- VOTE: 7 - 2

FINAL DISPOSITION 04/29/1999 Chapter Number Assigned

SB 441 **SPONSOR:** Christiaens, Chris **SHORT TITLE:** Revise property valuation and assessment

REFERRED ON: 02/11/1999 **HEARD ON:** 03/02/1999

EXECUTIVE ACTION: 03/09/1999 Bill Passed -- VOTE: 7 - 2

FINAL DISPOSITION 06/07/1999 Chapter Number Assigned

SB 444 **SPONSOR:** Mahlum, Dale **SHORT TITLE:** Exempt theaters, recreational and athletic facilities from property taxation

REFERRED ON: 02/11/1999

FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal

SB 449 **SPONSOR:** DePratu, Bob **SHORT TITLE:** Revise depreciation of pickups and SUV's

REFERRED ON: 02/11/1999 **HEARD ON:** 02/19/1999

EXECUTIVE ACTION: 03/02/1999 Bill Passed -- VOTE: 9 - 0

FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal

SB 487 **SPONSOR:** Roush, Glenn **SHORT TITLE:** Clarify oil equipment is a class 8

REFERRED ON: 02/13/1999 **HEARD ON:** 03/02/1999

EXECUTIVE ACTION: 03/04/1999 Bill Passed -- VOTE: 8 - 0

FINAL DISPOSITION 05/04/1999 Chapter Number Assigned

SB 502 **SPONSOR:** Grosfield, Lorents **SHORT TITLE:** Revise laws related to hard-rock mining impacts

REFERRED ON: 02/16/1999 **HEARD ON:** 03/05/1999

EXECUTIVE ACTION: 03/10/1999 Bill Passed as Amended -- VOTE: 9 - 0

FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 509 **SPONSOR:** Grosfield, Lorents **SHORT TITLE:** Revise lodging facility use tax and allocation of proceeds

REFERRED ON: 02/17/1999 **HEARD ON:** 03/05/1999

TABLED ON: 03/22/1999

FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 2, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 441, 2/18/1999; SB 487,
2/18/1999
Executive Action: SB 449, HB 405

HEARING ON SB 441

Sponsor: SENATOR B. F. "CHRIS" CHRISTIAENS, SD 23, GREAT FALLS

Proponents: Ronda Carpenter, Montana Housing Providers
Dennis Burr, Montana Taxpayers Association

Opponents: Mary Bryson, Director, Department of Revenue

Opening Statement by Sponsor:

SEN. B. F. "CHRIS" CHRISTIAENS, SD 23, Great Falls, said that **SB 441** deals with the way that rental property is appraised and how the Department of Revenue treats them. This requests that, under certain conditions, the Department of Revenue defer using the capitalization of net income method of appraisal as an indicator of market value and instead use the market value of property as indicated by sales of comparable properties.

Proponents' Testimony:

Ronda Carpenter, Montana Housing Providers, which is a coalition of landlords associations across the state made up of approximately 1,000 members dedicated to providing affordable, decent housing to the citizens of the state of Montana, has requested **SEN. CHRISTIAENS** to bring this legislation. She said that it deals with a statewide problem in regard to the appraisal of rental properties in Montana. She provided the committee with a packet of information, **EXHIBIT(1)**.

Ms. Carpenter referred the committee to the letter from the Department of Revenue which requests that landlords send copies of their leases to the Department and asks for information that many members of the association felt was unnecessary for the Department to know. It was discovered that these forms are optional and do not have to be completed, and therefore, many of the landlords in Montana did not participate.

Ms. Carpenter said that it has been learned that the Department has started using capitalization of net income to arrive at a value for rental properties. She then referred to the portion of a "Small Residential Income Property Appraisal Report" included in Exhibit 1 as an example of a fee appraisal. She said that in doing a fee appraisal, comparable sales of the property are determined through the multiple listing service, then the cost less depreciation comes up with a third approach, and then a capitalization of net income is figured. She said that a bank will not loan money on income approach only. They want the income approach to justify the comparable sales. She also said that it is a fact that the amount of money that can be borrowed against a piece of property drives the market value. In addition, state law says that you must use market value to appraise property.

Ms. Carpenter then pointed the committee to the Buyer's Closing Statement which showed the purchase price of rental property that she and her husband purchased for \$78,489, dated January 28, 1998, and two tax bills from June 1998 which reflected a total of

\$142,800 as value for this same piece of property. The last page of her information packet was the AB-26 form she had filled out in protest of this assessment. The AB-26 form reads, "After external review, find income ... supports assessed value. No change." She said that they then appeared before the Tax Appeal Board, and the Board changed this. She said this is not an unusual situation.

Ms. Carpenter said that the landlords are not asking the Department to stop using the capitalization of net income method of appraisal, but they are requesting that the Department set a common appraisal method as a standard and look at not only the capitalization of net income, but also comparable sales and cost less depreciation to come up with a fair market value. She said this would provide fairness in taxation for the people who provide housing for the citizens of Montana.

Dennis Burr, Montana Taxpayers Association, said a simple explanation of capitalization of income is that if you earn \$100 in income, and a normal rate of return for whatever business you are in is 10%, you work backwards to find that the value of the property is \$1,000. However, circumstances can cause the normal rate of return on that property to drop to 5%, which makes that property value \$2,000.

Mr. Burr said that he feels that all properties should be assessed in the same manner, so it is the business and how it is run that decides what its income will be and what its profit will be, and the property tax system should not be skimming off some of the income of the person who runs a better business than another. He said that is covered by the income tax. He said he is in favor of not using the capitalization of net income method for this type of property when replacement cost or comparable sales are used for just about all other property that is assessed in this area.

Opponents' Testimony:

Mary Bryson, Director, Department of Revenue, said that **SB 441** will hinder the Department in achieving the market value in appraising property for property tax purposes. She said this bill does require the use of construction costs or comparable sales to value property if the income approach produces a higher value, and this will prohibit a sound estimate of market value of income-producing property when sufficient information is present to use this approach.

Ms. Bryson said this bill is directly contrary to the Montana Supreme Court's decision in Albright v. Department of Revenue, in

which the court said that market factors must be taken into consideration when determining market value. In particular, construction costs often do not determine the true market value of the property because two structures with the same construction costs can sell for widely different prices, depending upon their location. Thus, construction costs alone cannot adequately determine market value. In addition, the market approach which uses a compilation of comparable sales also may not produce adequate information because there may not be comparable sales of like commercial properties in that area.

Ms. Bryson said the income approach for the Department can be a very valuable tool to determine market value when sufficient information exists. It is used to determine the value of commercial property. The theory is that a commercial property's value is determined based on its ability to produce income.

Ms. Bryson reiterated that the request for information mentioned by **Ms. Carpenter** is strictly voluntary. She also said that the Department does use the cost approach on 100% of the property throughout the state and the market value approach or the comparable sales approach primarily in residential and vacant lot arenas.

Questions from Committee Members and Responses:

SEN. ELLIS asked the Department to explain the income approach, and whether changes in interest rates, et cetera, are considered. **Randy Wilke, Department of Revenue**, said that in terms of the use of the income approach, the Department uses income and expense information from taxpayers, which is capitalized through use of a rate which varies for properties because it is property-type specific. In determining the value of that property, it is a function of simply dividing the net income by that particular capitalization rate to give an indication of value for individual pieces of property.

SEN. ELLIS asked about the different capitalization rates used for different types of property, and whether that capitalization rate for apartment houses, for instance, changes or is constant, and **Mr. Wilke** said that it will stay in place for that reappraisal cycle for that particular property.

SEN. ELLIS asked how the Department may have come up with the appraisal in the example of **Ms. Carpenter** of almost exactly twice what the property was purchased for in the same time frame. **Mr. Wilke** said that it is sometimes difficult to respond to a given piece of property without looking into it and obtaining more information.

SEN. ELLINGSON said that financial institutions require an appraisal before loaning money on income property, and every appraisal relies on three components: 1) cost approach, 2) income approach, and 3) comparable sales approach. He said he reads this bill as requiring the state to throw out one of the components that a professional appraiser would rely on in determining market value if that component, income capitalization, produces the highest figure. He asked why they would require the state to use a standard of evaluating market value that would be significantly different from the standard that is applied in private business throughout the state. **Ms. Carpenter** said that that was not the intent, and that if the legislation says that, they would be willing to clarify that language. She said that the intent was that the Department of Revenue would be required to use the same procedures that are used in a fee appraisal instead of just relying on solely the income approach, which can be skewed excessively high.

CHAIRMAN DEVLIN asked which method of the three methods discussed is appealed most often, and **Mr. Wilke** said that there is not a great deal of trouble in any one of these three methods. He said the Department tries to analyze all three approaches to value property. **CHAIRMAN DEVLIN** asked if all three methods were used for every property, and **Mr. Wilke** said that some properties do not lend themselves to the income approach. **CHAIRMAN DEVLIN** then asked when all three methods are used and a comparison is made between the different methods when possible, how the Department determines which method to use. **Mr. Wilke** said that the Department uses the method that is most reliable, the one that requires the least number of modifications or changes, which may not necessarily be the highest but brings the best indication of value in comparison to similar properties in the area.

CHAIRMAN DEVLIN then asked if the Department, as a matter of doing business, compares the results of the three methods of appraisal on a lot of properties, or just occasionally when challenged, and **Mr. Wilke** said that they do it all the time.

SEN. ECK asked what percentage of the voluntary forms are completed and returned to the Department, and **Mr. Wilke** said that it varies with the income and expense information form. In some areas it is 30% to 40%, while in other areas it is 10% to 20%.

SEN. ECK asked if this might be a pretty skewed information, and **Mr. Wilke** said he thought that most people responding to this are factual and accurate. He reiterated that a value is assessed a particular property from a combination of all the information obtained in a given area and not just information received from these forms.

SEN. ECK asked if a property owner could go to the Department of Revenue and find out how their property is appraised using each of the three methods, and **Mr. Wilke** said absolutely, that that is encouraged.

SEN. GLASER asked how a duplex that had been opened up to allow access to the other unit for his mother-in-law, for instance, would be appraised, and **Mr. Wilke** said that generally this would be considered a single-family residence, but that when it is reconverted to a duplex, the Department would probably request income and expense information again.

SEN. GLASER then wondered why the bill had been brought if, in fact, there is no fiscal impact, and **SEN. CHRISTIAENS** responded that it is a fairness issue, that everyone needs to be appraised in the same manner. He said if the Department is truly using all three methods, there should be no opposition to this bill. He said that usually what happens, if a landowner doesn't agree with an appraisal, he has to fill out the AB-26 form, which is denied, and then they have to appear before the Tax Appeal Board, and sometimes the appraisal is lowered and other times it is not. If all three legs of the appraisal stool are used, there should be no problem, but it appears the Department is picking and choosing in doing appraisal of properties.

SEN. GLASER asked him to explain the AB-26 form, and **SEN. CHRISTIAENS** said it is the form that **Ms. Carpenter** had provided that is used to appeal the values of property. **SEN. GLASER** asked if the AB-26 is always denied, and **SEN. CHRISTIAENS** said that he has never submitted one that had not been denied, but when he appeared before the Appeal Board, almost every one had been lowered.

SEN. GLASER then asked **Ms. Bryson** what percentage of these forms is allowed and what percentage is denied, and she said that the AB-26 form is used as an informal process where the appraiser and the taxpayer have an opportunity to sit down and discuss their differences in regard to the property, but that she could not provide a percentage of that denial rate.

SEN. BOHLINGER asked how reliable the 10% to 30% response to requested income and expense information would be in determining the capitalization rate, and **Mr. Wilke** said that he feels that the capitalization rates determined by the Department are very comparable to what fee appraisers use to determine value. He said they obtain information from more sources than just the taxpayers, and it is all used in determining the rate.

CHAIRMAN DEVLIN asked what other properties are assessed using this capitalization method, and **Mr. Wilke** said that income-producing property is the key one, but it is also used for agricultural land and forest land. He said that for agricultural land there is a capitalization rate of 6.4% in place in statute. **CHAIRMAN DEVLIN** asked if this bill would affect that, and **Mr. Wilke** said that that rate is in place by law, and he did not know whether it would be impacted, but that he did not believe that it would be.

Closing by Sponsor:

SEN. CHRISTIAENS closed by saying that all this bill is doing is asking that everyone is treated the same. As **SEN. BOHLINGER** said, when only 10% to 30% return the income form, it really does not give a clear picture of what true values are based on the income approach. He said he feels that the fee appraisal approach is the best. It is more costly, but it does take into consideration the cost to income and the comparable value. The capitalization rate by itself does not take into consideration the external values and the external circumstances that may be going on. This provides that everyone is treated the same in appraisals of commercial properties.

HEARING ON SB 487

Sponsor: **SENATOR GLENN ROUSH, SD 43, CUT BANK**

Proponents: **Elaine Mitchell, Comanche Drilling Company**
Curt Dahlgaard, Somont Oil
Gary Feland, J&G Operating
Joseph V. Montalban, MOGO Inc.
Jerome Anderson, Shell Oil Company
Dennis Burr, Montana Taxpayers Association
Gail Abercrombie, Montana Petroleum Association
Patrick Montalban, Northern Montana Oil & Gas
Association

Opponents: **None**

Opening Statement by Sponsor:

SEN. GLENN ROUSH, SD 43, Cut Bank, said that **SB 487** is an act clarifying that skidable, portable, and movable oil field equipment is class eight equipment for appraisal purposes. This bill amends Section 15-6-138, MCA, to define what needs to be shifted in the valuation of certain properties. He said that these items have been taxed as personal property for the past 40

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 9, 1999 at
8:05 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB248, 3/5/1999; HB 108,
3/5/1999
Executive Action: SB 514, SB 212, SB 441

HEARING ON HB 248

Sponsor: REPRESENTATIVE DAN W. HARRINGTON, HD 38, BUTTE

Proponents: Robert McCarthy, Butte-Silver Bow
Alec Hansen, League of Cities and Towns
Chris Gallus, Montana Chamber of Commerce

SEN. ELLINGSON asked how many jobs would be created by the initial phase of this project, and **SEN. McNUTT** said it would involve 60 to 70 jobs. **SEN. ELLINGSON** asked what the wages would be for those positions, and **SEN. McNUTT** said they would be anywhere from \$9 to \$15 per hour, depending on the labor classification. **SEN. ELLINGSON** asked about benefits, and **SEN. McNUTT** said he did not know that. He went on to say that this type of business is not run with transient help, so they will be paying good wages and have good benefits to encourage people to stay.

SEN. DEPRATU said he favored bringing forth a committee bill. He said this is a good example of how Montana is not competitive, and the jobs created and the income generated for Montana is a positive thing.

Vote: Motion carried 9-0 (Roll call vote #4).

EXECUTIVE ACTION ON SB 441

CHAIRMAN DEVLIN said this is **SEN. CHRISTIAENS'S** bill that has to do with the methods of appraisal under certain conditions on rental properties. He said there are no amendments.

Motion: **SEN. ELLIS MOVED THAT SB 441 DO PASS.**

Discussion:

SEN. STANG said that the Department of Revenue was the only opponent and Dennis Burr and Ronda Carpenter were the only proponents. He asked whether this might risk another court case like the Albright case, and **CHAIRMAN DEVLIN** said that was the Department's argument.

CHAIRMAN DEVLIN referred the committee to line 26, and said that he did not think this demands that the Department rely on comparable sales or construction costs, it just puts it as a priority.

SEN. ECK said she thought the question here is that they have used the income method, saying that they don't have the other two available. She said that when you have good comparable sales and construction costs, that those are preferable to income. She said she thought it ought to be moved out of committee.

SEN. ELLIS said that the industry had indicated that in many instances rentals can be inflated by certain factors which are sometimes above board and sometimes are not, but he wondered why you would jeopardize the state's legal position. He said other

factors are adjusted to be more in line with comp sales quite often, and he said he would vote against this bill.

SEN. ELLINGSON said he had no objection to the intent, but he did not think that the Department of Revenue should be put in a position that is different from any other business person who is trying to find out what the value of his or her property is when they get an appraisal. He said a professional appraisal involves the use of all three methods. He said as he reads this bill, if there is relevant information on comparable sales or construction costs which indicates a lower market value than the capitalization of income, then the capitalization of income is supposed to be disregarded. He said that is not what an appraiser does. He takes into consideration all three approaches. He said he would have to vote against it presently, but if the committee would indulge him, he would request an amendment be drafted so that all three of those things could be considered and excessive reliance on the capitalization of income approach could not be made by the Department of Revenue.

CHAIRMAN DEVLIN said what he thought had been happening is that the appraisers have been picking whatever comes out the highest. He said they can still use the other forms of appraisal, but if they are just going to use whatever form of appraisal is the highest, that is not right, and he said he thinks that is what the bill is addressing.

SEN. STANG asked if these people had taken their situations to the tax appeal board, and if so, what the board's decision was, and he was told that the Department almost always lost.

SEN. GLASER said he would support **SEN. CHRISTIAENS** on this bill.

Vote: Motion carried 7-2 with Ellingson and Stang voting no.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Taxation -

04:07 PM

**HOUSE
TAXATION**

CHAIR: Hibbard, Chase

VICE CHAIR: Gillan, Kim
Story, Bob

MEMBERS:

Beck, Gary

Dale, Rick

Davies, Bob

Erickson, Ron

Fuchs, Daniel

Guggenheim, Mary Anne

Hanson, Marian

Harper, Hal

Harrington, Dan

Holden, John

Jackson, Verdell

Orr, Scott

Raney, Bob

Rehbein, Bill

Rose, Sam

Schmidt, Trudi

Somerville, Roger

SECRETARY: Grace, Donna

LEGISLATIVE STAFF: Martin, Jeff

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Taxation -

04:07 PM

-
- SB 311** **SPONSOR:** Mohl, Arnie **SHORT TITLE:** Limit fuel tax refund to agricultural use
 REFERRED ON: 02/22/1999 **HEARD ON:** 03/08/1999
 TABLED ON: 03/31/1999
 FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee
-
- SB 370** **SPONSOR:** Stang, Spook **SHORT TITLE:** Local option sales tax
 REFERRED ON: 03/30/1999 **HEARD ON:** 04/08/1999
 EXECUTIVE ACTION: 04/13/1999 Bill Concurred as Amended -- VOTE: 13 - 6
 FINAL DISPOSITION 04/16/1999 (H) 2nd Reading Concur as Amended Motion Failed; Vote: 43 - 57
-
- SB 380** **SPONSOR:** Lynch, J.D. **SHORT TITLE:** Revise voluntary income tax check off program
 REFERRED ON: 02/20/1999 **HEARD ON:** 03/05/1999
 EXECUTIVE ACTION: 03/05/1999 Bill Concurred -- VOTE: 15 - 5
 FINAL DISPOSITION 04/16/1999 Chapter Number Assigned
-
- SB 424** **SPONSOR:** Cocchiarella, Vicki **SHORT TITLE:** Revise elderly homeowner and renter credit
 REFERRED ON: 03/30/1999 **HEARD ON:** 04/08/1999
 EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 17 - 3
 FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
-
- SB 426** **SPONSOR:** Sprague, Mike **SHORT TITLE:** Dedicate 50% of foreign capital depository for income tax relief
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/30/1999
 EXECUTIVE ACTION: 03/30/1999 Bill Concurred -- VOTE: 19 - 0
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- SB 430** **SPONSOR:** Roush, Glenn **SHORT TITLE:** Royalty administration fee not taxable value for oil production
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/30/1999
 EXECUTIVE ACTION: 04/09/1999 Bill Concurred as Amended -- VOTE: 20 - 0
 FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
-
- SB 441** **SPONSOR:** Christiaens, Chris **SHORT TITLE:** Revise property valuation and assessment
 REFERRED ON: 03/12/1999 **HEARD ON:** 03/29/1999
 EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 12 - 8
 FINAL DISPOSITION 06/07/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on March 29, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Annè Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Roger Somerville (R)

Members Excused: Rep. Trudi Schmidt (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

SB 454 - 3/22/1999
SB 441 - 3/22/1999
HB 677 - 3/23/1999
HB 678 - 3/23/1999

Executive Action:

HB 677 - Table
HB 678 - Do Pass as Amended
HB 240 - Do Pass as Amended
HB 665 - Removed from Table; Table

EXECUTIVE ACTION ON HB 677

Motion/Vote:

At the request of the sponsor, a motion was made to **TABLE**. The **MOTION PASSED** unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 1.5}

HEARING ON SB 441

Opening Statement by Sponsor:

Sen. Chris Christiaens, Senate District 23

{Tape : 1; Side : A; Approx. Time Counter : 2.2}

Proponents' Testimony:

Rhonda Carpenter, Montana Housing Providers EXHIBIT(1)

{Tape : 1; Side : A; Approx. Time Counter : 3.4}

Dennis Burr, Montana Taxpayers Association

{Tape : 1; Side : A; Approx. Time Counter : 10}

Opponents' Testimony:

Mary Bryson, Director, Department of Revenue

{Tape : 1; Side : A; Approx. Time Counter : 11.1}

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 17.0}

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 15.6}

HEARING ON SB 454

Opening Statement by Sponsor:

Sen. Tom Beck, Senate District 28

{Tape : 1; Side : B; Approx. Time Counter : 18.2}

Proponents' Testimony:

Don Allen, Powell County

{Tape : 1; Side : B; Approx. Time Counter : 24.8}

Opponents' Testimony:

None.

Informational Testimony:

Ross Swanson, Ranch Accounting and Fiscal Manager, Department of Corrections

{Tape : 1; Side : B; Approx. Time Counter : 27.2}

Mary Bryson, Director, Department of Revenue

{Tape : 1; Side : B; Approx. Time Counter : 27.4}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 28.4}

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 24.3}

HEARING ON HB 678

Opening Statement by Sponsor:

Rep. Robert Story, House District 24 (Committee Bill) EXHIBIT(2)

{Tape : 2; Side : A; Approx. Time Counter : 26.4}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on April 9, 1999 at
8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Rick Dale (R)
Rep. Daniel Fuchs (R)

Members Absent: Rep. John L. Holden (R)

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 529, SB 532, 3/31/1999
Executive Action: SB 454-Be concurred in a
Amended, SB 430-Be concurred
in as Amended, SB 424-Be

concurrent in; SB 487-Be
concurrent in as Amended, SB-
441 Be concurrent in, SB 532-Be
concurrent in, SB-111 Be
concurrent in as Amended.

HEARING ON SB 529

Sponsor:

Senator Jergeson presented SB 529.

{Tape : 1; Side : A; Approx. Time Counter : 21 - 112}

Proponents:

Toni Hagener, Rep. Dist. #90

{Tape : 1; Side : A; Approx. Time Counter : 112 - 206}

Gordon Morris, MACO, Montana Association of Counties

{Tape : 1; Side : A; Approx. Time Counter : 206 - 223}

Lance Melton, Montana School Boards Association

{Tape : 1; Side : A; Approx. Time Counter : 223 - 256}

Loren Frazier, Public School Districts

{Tape : 1; Side : A; Approx. Time Counter : 256 - 264}

Janie McCall, City of Billings

{Tape : 1; Side : A; Approx. Time Counter : 264 - 269}

Don Waldron, Montana Rural Education Association

{Tape : 1; Side : A; Approx. Time Counter : 269 - 275}

Opponents:

Dennis Burr, Montana Taxpayers Association

{Tape : 1; Side : A; Approx. Time Counter : 275 - 323}

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 323 - 550}

{Tape : 1; Side : B; Approx. Time Counter : 0 - 67}

Closing by Sponsor:

Senator Jergeson made closing statements.

{Tape : 1; Side : B; Approx. Time Counter : 67 - 112}

HEARING ON SB 532

Motion/Vote: REP. HANSON moved that SB 430 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 69 - 146}

EXECUTIVE ACTION ON SB 441

Motion/Vote: REP. ORR moved that SB 441 BE CONCURRED IN. Motion carried 12-8 with Dale, Erickson, Gillan, Guggenheim, Hibbard, Jackson, Rehbein, and Story voting no.

{Tape : 3; Side : B; Approx. Time Counter : 146 - 550}

EXECUTIVE ACTION ON SB 532

Motion/Vote: REP. REHBEIN moved that SB 532 BE CONCURRED IN. Motion carried 18-2 with Beck and Orr voting no.

{Tape : 4; Side : A; Approx. Time Counter : 0 - 57}

EXECUTIVE ACTION ON SB 424

Motion/Vote: REP. BECK moved that SB 424 BE CONCURRED IN. Motion carried 17-3 with Jackson, Orr, and Rehbein voting no.

{Tape : 4; Side : A; Approx. Time Counter : 57 - 170}

Meeting adjourned.